

JUNE 29, 2011

CSKT-Montana Water Rights Negotiation Session
Presentation on:
Stock Water Allowances
Domestic Allowances

<http://www.dnrc.mt.gov/rwrcc/default.asp>

Unitary Administration

- ▣ One regulatory body (“Water Management Board”)
- ▣ One set of rules (“The Ordinance” or “Law of Administration”)
- ▣ Board is responsible for water administration, including by hiring and supervising a Water Engineer and the Engineer’s staff

When is the Ordinance Effective?

- ▣ When it is approved by both the State and the Tribes in connection with final ratification of a water rights settlement
 - Ordinance applies *only* on the Flathead Indian Reservation, not to off-reservation water users

New Appropriations and Changes

▣ DRAFT 1-1-107. Appropriations Rights Allowed

- Domestic Allowances
- Stock Allowances
- Redundant and Substitute Wells
- Certain non-consumptive uses (e.g. hydropower; geothermal heating/cooling exchange wells)
- Temporary Emergency Appropriations
- New Permits with Mitigation
- New Permits using Replacement Water
- Changes of Existing Uses

▣

Domestic Wells

DRAFT 2-2-117

▣ Three types of Domestic Allowances:

- Individual
- Shared
- Development

No mitigation requirements for Domestic Allowances

Domestic Wells

DRAFT 2-2-117

- ▣ Individual Wells: up to a maximum of **35gpm** and **2.4 acre-feet per year** and irrigation of no more than **0.7 acres** (irrigation limit identified by reference to fire safety standards)
 - **NO** metering requirement
- ▣ Shared Wells (with shared well agreement): Up to a maximum of **35 gpm** and **2.4 afy** and irrigation of no more than **0.5 acres** total for 2 users and 0.75 acres total for 3 users
 - **NO** metering requirement
- ▣ Developments: Up to a maximum of **35gpm** and **10 afy** (and individual irrigation of no more than **0.25 acres** per plot)
 - **YES metering requirement**

“Development” means contiguous or closely grouped parcels of land under the same or affiliated ownership, including, but not limited to, housing subdivisions and/or any combination of business and residential units [that are simultaneously but not consecutively platted].

Stock Water Allowances

- ▣ Generally similar process as for obtaining Domestic Allowances:
 - Flow Rate/Volume/ Acreage caps (as applicable) for eligibility
 - Basic application form with strict time frames for action by Engineer
 - NO mitigation requirement for eligible Stock Water Allowances

Types of Stock Water Allowances

- ▣ 1) Stock Water Well Allowances
 - sourced from either Groundwater Wells or Developed Springs
- ▣ 2) Stock Water Pit Allowances
 - sourced from groundwater seepage or a non-perennial stream
- ▣ 3) Stock Water Tank Served by Surface Water Allowances
 - sourced from a perennial or non-perennial stream

Stock Water Allowance Process – 1

- 1) Apply for Stock Water Allowance (requires a form [Stock Water Form A] and a fee – amount to be determined)
- 2) Water Engineer has 45 days to approve the application or return it as defective
 - An applicant has 30 days to resubmit an application returned as defective
- 3) If Engineer fails to act within 45 days, the application is deemed approved

Stock Water Allowance Process – 2

- ▣ Upon approval, applicant may develop the Allowance (including associated infrastructure)
 - Must be developed within one year of issuance of approval

- ▣ Allowance is perfected when completion form [Stock Water Form B] is filed (must be within 120 days of actual completion of works)
 - Final authorized allowance is to cap of Allowance or actual as-built specs (whichever is smaller – anything larger than the Allowance caps requires a permit)

Stock Water Well Allowance Requirements – 1

- The maximum flow rate is 35 gallons per minute or less;
- The maximum annual diverted volume is 2.4 acre-feet or less;
- The means of diversion is a single Well or Developed Spring;
- The well is not physically connected to a Home or Business;
- The means of diversion includes Well Shaft Casing [unless the Allowance is sourced from a Developed Spring]; and
- Stock Water use associated with the appropriation is dispensed using Stock Tanks

“Stock Tank” means a 30 to 1500 gallon tank used to provide drinking water for [domestic animals] that is equipped with a water level regulator that shuts off supply to keep the Stock Tank from overflowing

Stock Water Well Allowance Requirements – 2

- File Stock Water Form A
- Proof that the applicant has the possessory interest or the written consent of the person with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use;
- Detailed Map (see 2-2-116(10))
 - The DNRC standard is 0.017 af per animal unit (AU) per year - 2.4 afy allows for watering of 140 animal units

Stock Water Pit Allowance Requirements – 1

- The capacity of the Stock Water Pit is 5 acre feet or less;
- The maximum annual appropriated volume is 10 acre feet or less;
 - The higher volume (10AF rather than 2.4AF) is to account for evaporation.
- The Stock Water Pit Allowance is sourced by groundwater seepage, a non-perennial stream, or both, provided that a ditch or pipeline is not used;
- The Stock Water Pit Allowance is constructed on and accessible to a parcel of land 40 acres or larger and owned or under control of the applicant; and
- The construction of the means of diversion complies with Tribal Ordinance 87(A) (Aquatic Lands Conservation Ordinance)
 - “Pit” means a body of water created by man-made means that stores water for beneficial use

Stock Water Pit Allowance Requirements – 2

- Proof that the applicant has the possessory interest or the written consent of the person with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use;
- Detailed Map (see 2-2-116(10))

Stock Water Tank Served by Surface Water Allowance Requirements – 1

- ▣ The maximum flow rate is 10 gallons per minute or less;
- ▣ The combined maximum annual diverted volume is 2.4 acre-feet or less;
- ▣ The means of conveyance is a fully contained pipe or hose. Open ditch conveyance is not allowed;
- ▣ The construction of the means of diversion complies with Tribal Ordinance 87(A) (Aquatic Lands Conservation Ordinance); and
- ▣ Stock Water associated with the appropriation is dispensed using one or more Stock Tanks
 - “Stock Tank” means a 30 to 1500 gallon tank used to provide drinking water for [domestic animals] that is equipped with a water level regulator that shuts off supply to keep the Stock Tank from overflowing

Stock Water Tank Served by Surface Water Allowance Requirements – 2

- Proof that the applicant has the possessory interest or the written consent of the person with possessory interest in the property where the point of diversion is located and where the water is to be put to beneficial use;
- Detailed Map (see 2-2-116(10))

▣ [put Form A in here]

Registration with the Board

Who Needs to Register?

- ▣ People with pre-1973 domestic or stock uses who did not have to and did not file a claim for those uses in the adjudication
- ▣ People with post-1973 domestic or stock uses who did not file completion forms (DNRC Form 602 or 605) with the DNRC
- ▣ If you have already filed a claim in the adjudication or have received a permit or certificate of completion from the DNRC, you do NOT need to register